

### **REMARKS/ARGUMENTS**

Claims 1, 6, 10-21, 27, and 28 have been examined. Claim 1 is amended by this paper. No claims are canceled or added. Therefore claims 1, 6, 10-21, 27, and 28 are present for examination, and claim 1 is the independent claim.

This amendment is being submitted in conjunction with a Request for Continued Examination under 37 C.F.R. § 1.114. Applicants respectfully request reconsideration and further examination of the application as amended.

#### **Interview Summary**

Counsel for the Applicant wishes to thank the Examiner for the interview of August 20, 2009. An appropriate Interview Summary form has been completed by the Examiner. At the interview, claim 1 was discussed in view of the Rebane reference of record. No agreement was reached as to patentability. Amendments were discussed for further distinguishing the claims over Rebane.

#### **Amendments**

The amendments to claim 1 serve to harmonize the language of claim 1 more closely with that of the specification. The amendments find support in the specification for example in paragraphs [0202] and [0334].

#### **Rejection Under 35 U.S.C. § 112 and Objection to Specification**

The Office Action has rejected claim 1 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action objects that the specification does not describe making a recommendation *based on which users have a similar personal construct scores*, as is recited in claim 1. The Office Action also objects to the specification as failing to provide antecedent basis for this claim element.

Claim 1 has been amended to remove this phrase, and Applicants believe the rejection and objection to be overcome.

**Rejection Under 35 USC §102**

Claims 1, 6, 10-21, 27 and 28 have been rejected under 35 USC §102(b) as being allegedly anticipated by the cited portions of Rebane, U.S. Patent 6,662,192 (“Rebane”). Applicants respectfully traverse.

The present application describes a system and method for recognizing patterns in data, and more specifically for making recommendations to individuals based on recognized patterns. A large group of customers is surveyed and profiled, and their perceptions of various products are recorded. A new customer can then be profiled and compared with the customers in the previously-profiled group. A purchase recommendation is made to the new customer based on the perceptions of members in the large group whose profiles are similar to that of the new customer. In other words, in a shopping context, the recommendation is based on what has been rated highly by people with similar profiles to the new customer. These steps are summarized in Applicants’ Figure 2.

The system uses survey techniques based on Personal Construct Theory (PCT). In performing a survey, the system presents a user with a series of “construct pairs”. A construct pair may be a pair of words that could be used to describe an item, and may be opposites. (Specification paragraphs [0033]-[0038]). For each construct pair, a series of possible scores is also presented, and the user is asked to choose a score for a product being evaluated. For example, the user may be asked to rate a computer system on a scale of 1 to 5, where 1 means “well made” and 5 means “unreliable”. (Paragraphs [0128]-[0131], Tables 6 and 7). It is important to recognize that the survey technique uses construct pairs describing extremes of opinion about an item, for example “well made” vs. “unreliable”, or “made in Britain” vs. “imported”, or “heavy” vs. “easy to read”. The words in the construct pairs may even be referred to as “poles”. (Paragraphs [0123]-[0128], Table 6). The system does not simply ask for an open-ended numerical satisfaction rating.

In a first “bootstrap” stage, a large number of individuals (several hundred) are surveyed about a product, using several construct pairs selected from a “construct repository”.

(Paragraphs [0054], [0123]). These responses are analyzed to group the individuals into classes. (Paragraph [0058]).

Once groupings are determined, a new user can be surveyed and compared to the predetermined groupings, to identify a set to which the user belongs. (Paragraph [0334]).

The system can then make recommendations for products to the new user, based on how the products are perceived by others in the grouping to which the user belongs. (Paragraph [0073]). Recommendations can even be made to customers who have not used the system, but which exist in a database. The recommendations may be based on the degree to which a user's profile is similar to the profiles of others who have received recommendations and made purchases. (Paragraph [0202]).

By contrast, Rebane discloses a system for rating merchants or products in an online shopping environment. In association with purchase transactions, consumer survey questionnaires are presented to the buyers. (Rebane col. 8 lines 30-32). The buyers fill out the surveys to rate various aspects of the purchase transaction. (Col. 8 line 61 – col. 9 line 35, Figure 1a). The data is collected and processed, and feedback may be provided to the merchants involved in the transactions. (Col. 16 lines 42-53, Figures 5a-5e). Ratings are also presented to shoppers. (Col. 33 lines 18-33, Figure 18).

There are significant differences between the system of Rebane and the system of Applicants' claims. For example, Rebane does not describe a survey that uses construct pairs. Rebane describes only asking for a numerical rating of a buyer's satisfaction with a certain aspect of a transaction. In another example, Rebane does not describe any mechanism for making recommendations to particular shoppers based on the opinions of other like-minded persons.

These differences are amply reflected in Applicants' claims.

For example, claim 1 recites in part

*a construct repository configured to retain a plurality of **construct pair reference sets**, each construct pair reference set comprising at least **a first descriptive term and a second descriptive term**, the first descriptive term and the second descriptive term selected according to personal construct theory to **represent contrasting opinions**;*

*a graphical user interface configured to display a user-selectable control related to a construct pair reference set of the plurality of construct pair reference sets and further configured to receive a particular user's opinion selected between the first descriptive term and the second descriptive term, the graphical user interface further configured to store in the construct repository the opinion received from the particular user for the construct pair reference set...*

Claim 1 thus requires a repository of *construct pair reference sets*. Each *construct pair reference set* includes two *descriptive terms* representing *contrasting opinions* of a thing. Rebane does not describe this kind of *repository*, and does not describe *construct pair reference sets*.

In support of the rejection, the Office Action cites Figure 1a of Rebane as disclosing these claim elements, and also column 8 line 61 through column 9 line 35, which describe Figure 1a. (Office Action pp. 3-4). Applicants respectfully submit that the cited passages do not support the rejection. Applicants' Table 6 and Figure 1a of Rebane are shown below for comparison.

TABLE 6												
<u>Basic 1 x 10 Grid</u>												
<u>Elements</u>												
	A	B	C	D	E	F	G	H	I	J	K	
Construct Pole X	R <sub>1</sub>	R <sub>2</sub>	R <sub>3</sub>	R <sub>4</sub>	R <sub>5</sub>	R <sub>6</sub>	R <sub>7</sub>	R <sub>8</sub>	R <sub>9</sub>	R <sub>10</sub>	Construct Pole Y	

Applicants' Table 6 shows a construct pair, including construct pole X and construct pole Y, and selectable elements between the poles. As is explained above, the poles are *descriptive terms* that are *selected according to personal construct theory to represent contrasting opinions*.

EVALUATION FOR: Online Merchant

FIG. 1a

How satisfied were you? Use a ten-point rating scale to rate your satisfaction with Online Merchant and this purchase as it applies to:

		How Satisfied Were You?										
		Not at all		A Little		Some-what		Quite a Bit		Highly		
		1	2	3	4	5	6	7	8	9	10	NA
100	<u>102</u> Ease of Ordering Consider: Convenience and speed of ordering	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	<u>104</u> Product Selection Given site focus: Breadth/depth of products offered	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	<u>106</u> Product information Consider: Information quantity, quality & relevance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	<u>108</u> Product Prices Consider: Prices relative to similar merchandise	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	<u>110</u> Web Site Navigation & Looks Consider: Layout, broken links/pictures/images & speed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Shopping on the Web

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Rebane's Figure 1a shows several aspects of a shopping experience (Ease of Ordering, Product Selection, etc.) and asks for a numerical rating of each. Rebane's aspects are not construct pairs, because they do not each include two descriptive terms representing *contrasting opinions* of a thing. And because Rebane does not utilize construct pairs, its user interface does not receive a particular user's opinion selected *between the first descriptive term and the second descriptive term*. Rebane only receives a simple numerical rating of each aspect.

In another example, claim 1 recites

*an analysis engine configured to analyze relationships among a plurality of received user opinions for construct pair reference sets retrieved from the construct repository in which the analysis engine analyses responses made by the particular user using a statistically based process to identify a set of users to which the particular user belongs and to generate a recommendation for the particular user related to an item based on the degree to which the particular user is proximal in profile to others in the set.*

This part of claim 1 describes the aspect of the invention in which a recommendation is made to a particular user based on inputs from other similar users. Rebane does not describe any analysis engine with this capability.

In support of the rejection, the Office Action cites Figure 18 and column 33 lines 17-51 of Rebane as disclosing generating a recommendation related to an item based on which users have similar personal construct scores. (Office Action p. 5). Claim 1 has been amended to further clarify that this means the recommendation is generated *based on the degree to which the particular user is proximal in profile to others in the set*. Again, the cited passages of Rebane do not support the rejection. Rebane's Figure 18 shows only a star rating for each of several merchants. Rebane apparently presents the same ratings (which are not even recommendations) to all shoppers, and does not describe any mechanism for making recommendations to a particular user based on inputs from other users selected to be similar to the particular user.

Rebane does not disclose, expressly or inherently, each and every element of Applicants' claim 1, and therefore does not anticipate claim 1. The remaining claims depend from claim 1 and add further limitations, and are therefore also not anticipated for at least this reason.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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